



# **DFARS Transformation**

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Defense Acquisition Regulations

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<http://www.acq.osd.mil/dpap/dars/index.htm>



# ***DFARS Transformation Overview***

- AT&L Direction
- Process Changes (PGI)
- Technology (DTIS)
- Impact



# ***AT&L Direction***

- Conduct a comprehensive review and transformation of the FAR and DFARS
  - Reduce DFARS by 40%
- Include operational proceedings used to revise and implement the DFARS

## **Objectives:**

**Reduce regulation**

**Improve processes**

**Inject technology**

### **Supports AT&L**

- **Goal 1 - Acquisition Excellence with Integrity**
- **Goal 2 - Resources Rationalized**



# ***Why?***

- **Excessive/unnecessary regulation in some areas**
- **Reliance on the regs creates a checklist approach**
  - **Minimizes thought and analysis**
  - **Impedes creativity and innovation**
- **Our review determined that the rulemaking process is --**
  - **Resource intensive and paper-based**
    - ~300 people supported the FAR/DFARS creation
  - **Time consuming and non-responsive**
    - Idea to reality: 14 month average for FAR changes, 11 months for DFARS
  - **Burdensome**
    - Difficult to participate in the rule-making process
    - Blurred distinction between true “regulation” (what to do) and “guidance” (how to do it)



# ***... but DFARS Matters***

- DoD, the Hill, Industry promote DFARS
  - Consistency in business practices
  - Force of law
  - Transparency – public comment process
  - Discipline and accuracy
- Vehicle of choice to implement --
  - Departmental policies such as UID, RFID, Contractors on the Battlefield, DCMA Business Rules, domestic preference rules, Enterprise Software Initiative
  - Legislative initiatives such as SARA
  - IG/GAO recommendations – Competition on Schedules
- AT&L is the credible source for 50 years of historical knowledge of the acquisition process

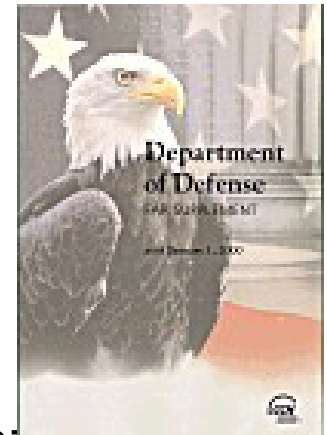
**DFARS has immediate world-wide impact upon publication**



# ***A New DFARS***

## **DFARS, the Regulation --**

- Requirements of law
- Mandatory DoD-wide policy
- Delegations of FAR authorities
- Deviations from FAR
- Policies/procedures with significant effect outside DoD internal operations



And...

- Links to Procedures, Guidance, and Information (PGI)



# ***Procedures, Guidance***

## ***and Information***

- Procedures (***“PGI”***)
  - Mandatory DoD-internal procedures\*
  - Optional DoD-internal procedures\*\*
- Guidance\*\*
  - Helpful explanations, samples, guides, tips, etc.
- Information\*\*
  - Source material (policy memo)
  - Statutes, Conference language
  - Background/explanations
  - Training material

No significant impact  
on the public

Not a codified  
regulation

\*Mandatory link in

**DFARS**

\*\*Optional link in **DFARS**



# ***Why PGI?***

## **VALUE**

- Supports rapid change
- Fosters flexibility and innovation
- Distinguishes regulation vs procedure
- Shortens DAR Council and rule-making processes

## **APPROACH**


- Managed content (DARC direction and processes)





## ***PGI Increment 2***

- Incorporate enabling technology to provide seamless access to the FAR, applicable statutes, & Training.
- PGI managed through the PGI Governance board.
- Rewrite of the PGI using plain language, what does it mean to the CO, industry, and others.



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Office of the Under Secretary of Defense for Acquisition Technology and Logistics

# Defense Procurement and Acquisition Policy

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### Welcome to the DFARS PGI

Welcome to the Defense Federal Acquisition Regulation Supplement (DFARS), Procedures, Guidance and Information (PGI) Web page. DFARS PGI is being developed as a companion resource to the DFARS; a result of the DFARS Transformation effort chartered by the Under Secretary of Defense for Acquisition, Technology and Logistics (USD/AT&L). DFARS PGI is a new, web-based tool for the entire acquisition community to simply and rapidly access — via the World Wide Web — non-regulatory Department of Defense (DoD) procedures, and guidance and information relevant to FAR and DFARS topics. The DFARS remains the source for regulation, implementation of laws as well as DoD-wide contracting policies, authorities and delegations. In other words, DFARS will answer the questions, **"What is the policy?"** and **"What are the rules?"** DFARS PGI will connect the acquisition community to the available background, procedures and guidance and answer the questions, **"How can I execute the policy?"** and **"Why does this policy exist?"**

We believe DFARS PGI will not only provide a rapid method of disseminating non-regulatory material to contracting officers and the entire acquisition community, it will also serve as a real-time training tool by making relevant information available on your topic of interest. DFARS PGI is new and will be evolving in the months ahead. We'll move to simpler language, an easy-to-follow format and follow with new tools for searching and retrieving current and past information on FAR and DFARS requirements.

We hope you'll take advantage of the capabilities DFARS PGI presents today and in the future. We welcome your comments and input as it progresses through development. Don't hesitate to [contact us](#) with your ideas and comments.



**A Companion Resource to the DFARS**

PGI is a companion resource containing mandatory and non-mandatory internal DoD procedures, non-mandatory guidance and supplemental information used at the discretion of the contracting officer.

PGI will not contain policy or procedures that significantly affect the public and will not be published in the Federal Register or the Code of Federal Regulations. However, the HTML version of the [DFARS](#) contains links to the corresponding PGI sections.

The authority to issue PGI comes from [DoD Directive 5000.35](#), Defense Acquisition Regulations Management and [DFARS 201.301](#).

For more information, visit the [About PGI](#) page.

Questions or Comments? [Contact DARS](#)

## SUBPART 203.5--OTHER IMPROPER BUSINESS PRACTICES

(Revised December 15, 2004)

[203.502- Subcontractor](#)  
[203.570 Prohibition](#)  
[203.570- Scope](#)  
[203.570- Prohibition](#)  
[203.570- Contract](#)

### **203.502-2 Subcontractor kickbacks.**

(h) The DoD Inspector General has designated Special Agents of the following investigat Kickback Act of 1986:

- (i) U.S. Army Criminal Investigation Command.
- (ii) Naval Criminal Investigative Service.
- (iii) Air Force Office of Special Investigations.
- (iv) Defense Criminal Investigative Service.

### **203.570 Prohibition on persons convicted of fraud or other defense-contract-rel**

#### **203.570-1 Scope.**

This subpart implements 10 U.S.C. 2408.

#### **203.570-2 Prohibition period.**

DoD has sole responsibility for determining the period of the prohibition described in parag Defense-Contract-Related Felonies. The prohibition period—

(a) Shall not be less than 5 years from the date of conviction unless the agency head or a PGI 203.570-2(a) ([Pop-up Window](#) or [PGI Viewer Mode](#)); and

(b) May be more than 5 years from the date of conviction if the agency head or a designe copy of the determination to the address at PGI 203.570-2(b) ([Pop-up Window](#) or [PGI Viewer](#)

#### **203.570-3 Contract clause.**

Use the clause at [252.203-7001](#), Prohibition on Persons Convicted of Fraud or Other Defens acquisition threshold, except solicitations and contracts for commercial items.

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**PGI 203.5--OTHER IMPROPER BUSINESS PRACTICES**  
(SEE DFARS 203.5 - [POP-UP WINDOW](#), [PGI VIEWER MODE](#))

**PGI 203.570 Prohibition on persons convicted of fraud or other defense-contract-related felonies.**

**PGI 203.570-2 Prohibition period.**

(a)(1) The contracting officer shall—

- (i) Review any request for waiver; and
- (ii) Deny the request if the contracting officer decides the waiver is not required in the interests of national security; or
- (iii) Forward the request to the head of the agency or designee for approval if the contracting officer decides the waiver may be in the interest of national security.

(2) The head of the agency or designee shall report all waivers granted, and the reasons for granting the waiver, to the Under Secretary of Defense (Acquisition, Technology, and Logistics), who will forward the report to Congress as required by 10 U.S.C. 2408(a)(3).

(b) Submit a copy of the determination to Bureau of Justice Assistance, U.S. Department of Justice, 810 Seventh Street, NW, Washington, DC 20531.

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## SUBPART 203.5--OTHER IMPROPER BUSINESS PRACTICES

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[203.570- Contract](#)**[203.502-2 Subcontractor kickbacks.](#)**

(h) The DoD Inspector General has designated Special Agents of the following investigative organizations as representatives for conducting inspections and audits under the Anti-Kickback Act of 1986:

- (i) [U.S. Army Criminal Investigation Command](#).
- (ii) Naval Criminal Investigative Service.
- (iii) Air Force Office of Special Investigations.
- (iv) Defense Criminal Investigative Service.

**203.570 Prohibition on persons convicted of fraud or other defense-contract-related felonies.****[203.570-1 Scope.](#)**

This subpart implements 10 U.S.C. 2408.

**[203.570-2 Prohibition period.](#)**

DoD has sole responsibility for determining the period of the prohibition described in paragraph (b) of the clause at [252.203-7001](#), Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies. The prohibition period—

- (a) Shall not be less than 5 years from the date of conviction unless the agency head or a designee grants a waiver in the interest of national security. Follow the waiver procedures at PGI 203.570-2(a) ([Pop-up Window](#) or [PGI Viewer Mode](#)); and
- (b) May be more than 5 years from the date of conviction if the agency head or a designee makes a written determination of the need for the longer period. The agency shall provide a copy of the determination to the address at PGI 203.570-2(b) ([Pop-up Window](#) or [PGI Viewer Mode](#)).

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(SEE DFARS 203.5 - [POP-UP WINDOW](#), [PGI VIEWER MODE](#))

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- (iii) Air Force Office of Special Investigations.
- (iv) Defense Criminal Investigative Service.

**203.570 Prohibition on persons convicted of fraud or other defense-contract-related felonies.**

**203.570-1 Scope.**  
This subpart implements 10 U.S.C. 2408.

**203.570-2 Prohibition period.**  
DoD has sole responsibility for determining the period of the prohibition described in paragraph (b) of the clause at [252.203-7001](#), Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies. The prohibition period—

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**Training**

- [CON 101](#): The BAA training module is intended to demystify FAR Part 25 and DFARS 225 by providing explanatory materials and practical examples to clarify the main issues. This will enable the contract specialist and contracting officer to successfully navigate their way through all but the most unusual issues.
- [CON 102](#): The BAA training module is intended to demystify FAR Part 25 and DFARS 225 by providing explanatory materials and practical examples to clarify the main issues. This will enable the contract specialist and contracting officer to successfully navigate their way through all but the most unusual issues.
- [CON 103](#): The BAA training module is intended to demystify FAR Part 25 and DFARS 225 by providing explanatory materials and practical examples to clarify the main issues. This will enable the contract specialist and contracting officer to successfully navigate their way through all but the most unusual issues.
- [CON 104](#): The BAA training module is intended to demystify FAR Part 25 and DFARS 225 by providing explanatory materials and practical examples to clarify the main issues. This will enable the contract specialist and contracting officer to successfully navigate their way through all but the most unusual issues.

[Close Training Tab](#)**PGI 203.5--OTHER IMPROPER BUSINESS PRACTICES**  
(SEE DFARS 203.5 - [POP-UP WINDOW](#), [PGI VIEWER MODE](#))**PGI 203.570 Prohibition on persons convicted of fraud or other defense-contract-related felonies.****PGI 203.570-2 Prohibition period.**

- (a)(1) The contracting officer shall—
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  - (iii) Forward the request to the head of the agency or designee for approval if the contracting officer decides the waiver may be in the interest of national security.
- (2) The head of the agency or designee shall report all waivers granted, and the reasons for granting the waiver, to the Under Secretary of Defense (Acquisition, Technology, and Logistics), who will forward the report to Congress as required by 10 U.S.C. 2408(a)(3).
- (b) Submit a copy of the determination to Bureau of Justice Assistance, U.S. Department of Justice, 810 Seventh Street, NW, Washington, DC 20531.

[203.502- Subcontractor](#)  
[203.570 Prohibition](#)  
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[203.570- Contract](#)

### **203.502-2 Subcontractor kickbacks.**

(h) The DoD Inspector General has designated Special Agents of the following investigative organizations as representatives for conducting inspections and audits under the Anti-Kickback Act of 1986:

- (i) [U.S. Army Criminal Investigation Command](#)
- (ii) Naval Criminal Investigative Service.
- (iii) Air Force Office of Special Investigations.
- (iv) Defense Criminal Investigative Service.

### **203.570 Prohibition on persons convicted of fraud or other defense-contract-related felonies.**

**203.570-1 Scope.**  
 This subpart implements 10 U.S.C. 2408.

**203.570-2 Prohibition period.**  
 DoD has sole responsibility for determining the period of the prohibition described in paragraph (b) of the clause at [252.203-7001](#), Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies. The prohibition period—

(a) Shall not be less than 5 years from the date of conviction unless the agency head or a designee grants a waiver in the interest of national security. Follow the waiver procedures at PGI 203.570-2(a) ([Pop-up Window](#) or [PGI Viewer Mode](#)); and

(b) May be more than 5 years from the date of conviction if the agency head or a designee makes a written determination of the need for the longer period. The agency shall provide a copy of the determination to the address at PGI 203.570-2(b) ([Pop-up Window](#) or [PGI Viewer Mode](#)).

**203.570-3 Contract clause.**  
 Use the clause at [252.203-7001](#), Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies, in all solicitations and contracts exceeding the simplified acquisition threshold, except solicitations and contracts for commercial items.

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#### **Policy**

- [September 13, 2004, memorandum from the Director of Defense Procurement and Acquisition Policy, Subject: Approval Levels for Sole Source Orders Under Federal Supply Schedules \(FSSs\) and Multiple Award Contracts \(MACs\)](#)
- [October 1, 2004, memorandum from the GSA Office of the Chief Acquisition Officer, Subject: Purchases on Behalf of Other Agencies](#)

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### **PGI 203.5--OTHER IMPROPER BUSINESS PRACTICES**

(SEE DFARS 203.5 - [POP-UP WINDOW](#), [PGI VIEWER MODE](#))

### **PGI 203.570 Prohibition on persons convicted of fraud or other defense-contract-related felonies.**

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- (iii) Forward the request to the head of the agency or designee for approval if the contracting officer decides the waiver may be in the interest of national security.

(2) The head of the agency or designee shall report all waivers granted, and the reasons for granting the waiver, to the Under Secretary of Defense (Acquisition, Technology, and Logistics), who will forward the report to Congress as required by 10 U.S.C. 2408(a)(3).

(b) Submit a copy of the determination to Bureau of Justice Assistance, U.S. Department of Justice, 810 Seventh Street, NW, Washington, DC 20531.



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[203.570- Contract](#)

### **203.502-2 Subcontractor kickbacks.**

(h) The DoD Inspector General has the following investigative organizations inspections and audits under the Act:

- (i) U.S. Army Criminal Investigative Center
- (ii) Naval Criminal Investigative Service
- (iii) Air Force Office of Special Investigations
- (iv) Defense Criminal Investigative Group

### **203.570 Prohibition on persons contract-related felonies.**

**203.570-1 Scope.**  
 This subpart implements 10 U.S.C. 2386.

**203.570-2 Prohibition period.**  
 DoD has sole responsibility for determining whether a person is contract-related as described in paragraph (b) of the clause. Convicted of Fraud or Other Defense Contract-Related Felony prohibition period—

(a) Shall not be less than 5 years after the person is granted a waiver by the DoD. Follow the waiver procedures at PGI [203.570-2\(b\)](#) ([Pop-up Window](#) or [PGI Viewer Mode](#)); and

(b) May be more than 5 years from the date of conviction if the person or a designee makes a written determination. The agency shall provide a copy of the determination to the person. [203.570-2\(b\)](#) ([Pop-up Window](#) or [PGI Viewer Mode](#)).

**203.570-3 Contract clause.**  
 Use the clause at [252.203-7001](#), Prohibition on Acquisition of Defense Contract-Related Felony, for acquisitions exceeding the simplified acquisition threshold for commercial items.

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### **Policy**

- September 13, 2004, memorandum from the Director of Defense Procurement and Acquisition Policy, Subject: Approval Levels for Sole Source Orders Under Federal Supply Schedules (FSSs) and Multiple Award Contracts (MACs)
- October 1, 2004, memorandum from the GSA Office of the Chief Acquisition Officer, Subject: Purchases on Behalf of Other Agencies

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**DEPARTMENT OF DEFENSE**

**OFFICE OF THE UNDER SECRETARY OF DEFENSE**

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

**SEP 13 2004**

**ACQUISITION, TECHNOLOGY AND LOGISTICS**

**DPAP/DARS**

**MEMORANDUM FOR SENIOR PROCUREMENT EXECUTIVES  
DIRECTORS OF DEFENSE AGENCIES**

**SUBJECT: Approval Levels for Sole Source Orders Under Federal Supply Schedules (FSSs) and Multiple Award Contracts (MACs)**

On July 19, 2004, we changed Federal Acquisition Regulation (FAR) procedures for approving sole source orders under Federal Supply Schedules (FSS), establishing new approval levels and documentation requirements. The new approval levels were published in Federal Acquisition Circular 2001-24 and are consistent with the justification and approval (J&A) levels at FAR 6.304. These changes will better support our efforts to maximize competition when using FSS for supplies and services.

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defense-contract-related

over is not required in the interests

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ce, U.S. Department of Justice,

## DFARS

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**203.570 Prohibition on persons convicted of fraud or other defense-contract-related felonies.**

**203.570-1 Scope.**  
This subpart implements 10 U.S.C. 2408.

**203.570-2 Prohibition period.**  
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**Background**

There is no Background information available for this PGI.

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(SEE DFARS 203.5 - [POP-UP WINDOW](#), [PGI VIEWER MODE](#))

**PGI 203.570 Prohibition on persons convicted of fraud or other defense-contract-related felonies.****PGI 203.570-2 Prohibition period.**

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- (i) Review any request for waiver; and
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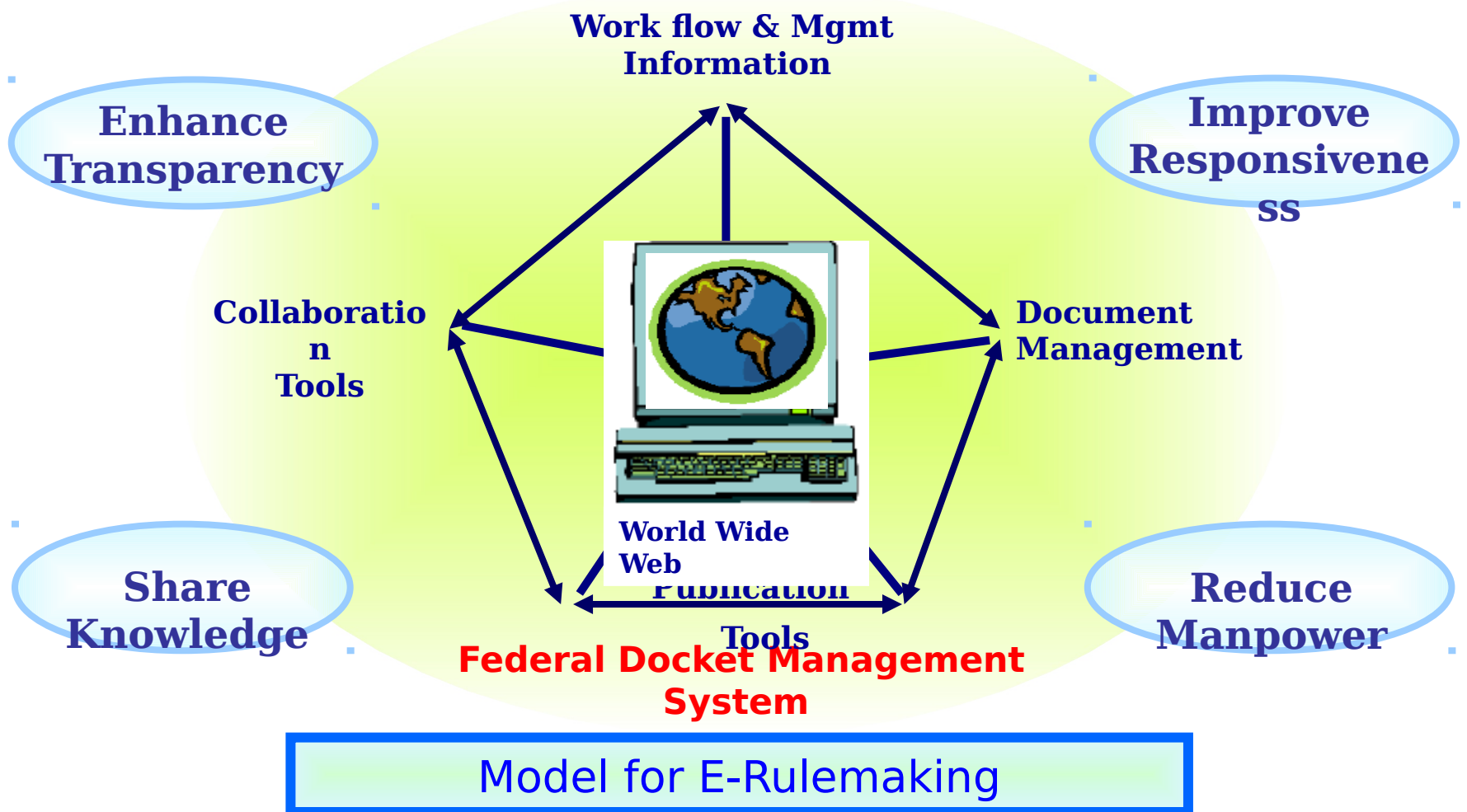
(2) The head of the agency or designee shall report all waivers granted, and the reasons for granting the waiver, to the Under Secretary of Defense (Acquisition, Technology, and Logistics), who will forward the report to Congress as required by 10 U.S.C. 2408(a)(3).

(b) Submit a copy of the determination to Bureau of Justice Assistance, U.S. Department of Justice, 810 Seventh Street, NW, Washington, DC 20531.





# ***DFARS Information Transformation (DTIS) VISION***





# ***Impact***

- For the Contracting Officer
- For Industry
- For the Public

**Transparency, Access, Knowledge, Participation**



# ***Summary***

- AT&L recognized the need for change
- Unnecessary DFARS rules are being removed
  - Industry is concerned but supportive
- Process changes are systemic and enduring
  - PGI is a foundation for new knowledge management tools for the contracting officer and industry
- DTIS will facilitate further change to promote a responsive and transparent rulemaking process